

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION	)	MDL No. 2804
OPIATE LITIGATION	)	
	)	Case No. 17-md-2804
This document applies to All Cases	)	Judge Dan Aaron Polster
	)	

**PLAINTIFFS' MOTION TO MODIFY  
PROTECTIVE ORDER RE: DEA'S ARCOS/DADS DATABASE**

COME NOW, the Plaintiffs, by and through Co-Leads and the Plaintiffs' Executive Committee, and respectfully request that the Court enter the attached Proposed Second Order Amending Protective Order re: DEA ARCOS/DADS Database ("Proposed Second Order").

On March 6, 2018 this Court entered the initial Protective Order Re: DEA's ARCOS/DADS Database (Doc. #167) and on May 8, 2018 this Court entered the Amendment to Protective Order, (Doc. #400) (together, the "ARCOS Protective Order"). On July 13, 2018, the Court entered an Order Regarding Plaintiffs' Motion for Modification of CMO-1 (Doc. # 739), which required Plaintiffs to amend their complaints utilizing ARCOS information to add or dismiss defendants. Despite the Court's Order on Plaintiff's Motion for Modification, the Department of Justice ("DOJ") continues to receive numerous *Touhy* requests from non-MDL plaintiffs for the entirety of the ARCOS database. The Plaintiffs' Proposed Second Order would allow disclosure of suspicious order reports (SORs) and unprocessed ARCOS data, both of which were previously produced by the DEA in this litigation, as well as county level processed ARCOS data and certain county level reports, generated from the unprocessed ARCOS data (collectively the "ARCOS Data"), to be made to counsel for State Attorneys General, cities, counties, Native American Tribes, and hospitals for use in litigation in any court throughout the

United States involving the marketing, distribution, sale or use of Opioid related drugs and/or for law enforcement purposes (“Opioid Litigation”).

Entry of the Proposed Second Order alleviates the burden of the DOJ from responding to numerous *Touhy* requests across multiple jurisdictions. Also, litigants in all jurisdictions, cities, counties, Native Americans and Attorneys General should have access to the ARCOS Data in order to analyze the volume and type of opioids, the individual orders, and the frequency and the pattern of orders. The ARCOS Data, as opposed to the 5% threshold currently in place, will further refine the process of identifying the proper defendants and preparing litigation strategy. In light of the volume of complaints that will be continue to be filed and the number of complaints that will need to be amended in the future, Plaintiffs request entry of the Proposed Second Order.

Plaintiffs have met and conferred with DOJ/DEA about this motion and have been advised that DOJ/DEA consents to all aspects of the filing except insofar as the motion would permit sharing of ARCOS information with hospitals, which DOJ/DEA opposes because it is outside the scope of routine law enforcement sharing of such information.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant Plaintiffs’ Motion to Modify Protective Order.

Dated March 15, 2019

Respectfully submitted,  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15<sup>th</sup> day March of 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF Systems.

s/Peter H. Weinberger

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